

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JORDAN CHARLES
DEMONTINEY,

Defendant.

CR 09-91-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on August 15, 2016. Defendant admitted he had violated Standard Condition 7 of his supervised release by using a narcotic drug for which he had no prescription and by using methamphetamine; he had violated Special Condition 2 of his supervised release by refusing to have a sweat patch applied to him and by throwing his presumed positive test for opiates in the garbage; he had violated Special Condition 3 of his supervised release by failing to comply with his substance abuse treatment program; and he had violated Special Condition 4 of his supervised release by failing to participate in mental health

treatment. Judge Johnston found the admissions sufficient to establish the supervised release violations. He recommended that this Court revoke Defendant's supervised release and sentence him to 10 months of custody, followed by 12 months of supervised release.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commadore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated Standard Condition 7, and Special Conditions 2, 3 and 4. Defendant could be incarcerated for up to 60 months, followed by 44 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of 5 to 11 months. A sentence of 10 months in custody, followed by 12 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations

(Doc. 71) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 31st day of August, 2016.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

Brian Morris
United States District Court Judge